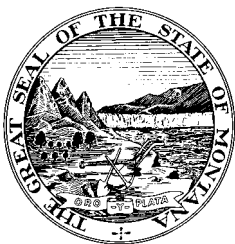


**DEPARTMENT OF ADMINISTRATION
GENERAL SERVICES DIVISION
STATE PROCUREMENT BUREAU**

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Questions and Answers on Contractor Withholding Issues
Prepared by the State Procurement Bureau, Department of Administration,
with the assistance of the Department of Revenue
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1. Who is responsible for notifying the Department of Revenue (DOR) that a "public works" contract over \$5,000 has been issued?

The agency issuing the contract is responsible for notifying DOR that the 1% withholding requirement will apply to the project. The issuing agency completes DOR's "Contract Award Report," which is available on the State Procurement Bureau's (SPB) website at <http://discoveringmontana.com/doa/gsd/procurement/forms.asp>. The SPB will complete the form if it conducted the procurement on behalf of a state agency.

2. Who is the "awarding party" for the purposes of the DOR forms?

The "awarding party" is the agency that the contract is being issued for – in essence, the "responsible party." If the SPB conducted the procurement, a SPB contracts officer will sign it as the "Preparer" on behalf of the state agency.

3. How is DOR's "Gross Receipts Withholding Report" completed?

If the SPB conducted the procurement, a SPB contracts officer will fill out sections 1, 2, 3, 4, 5, and 11 and then forward the form to the state agency for completion. Again, this form is available on the SPB website at <http://discoveringmontana.com/doa/gsd/procurement/forms.asp>.

4. What types of contracts are covered by the contractor withholding tax?

First, it applies to all public contracts at every level of jurisdiction. Second, pursuant to the DOR administrative rules, the term "construction" should be broadly construed. "Public construction work" includes any work requiring the installation, addition, placement, replacement, or removal of any equipment, parts, structures, or materials exceeding \$5,000 whether or not such contracts require performance of service, maintenance, repair, or any other type of work in addition to, or as part of, the work as stated above. (See ARM 42.31.2101.) Therefore, this tax applies to anything related to construction, repair,

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maintenance, etc. However, it does NOT apply to “services” associated with maintaining buildings, such as janitorial services or elevator maintenance (unless it involves structural changes to accommodate new equipment). It does apply to things like carpet installation (if over \$5,000), carpet removal (because it typically goes with some sort of improvement/replacement of floor treatment), retrofit of heating, ventilation, and air conditioning systems, removal of phone cables (if it involves conduit removal or wall repair, but not if it just involves pulling wires through conduit), installation of telephone or IT cable (unless it is just an upgrade through existing conduit), etc. *If you need assistance in determining whether the contractor withholding tax applies, contact the Department of Revenue at (406) 444-3500.*

5. Does DOR have a position on how information about the tax is reflected in bids?

No. DOR suggests that it be left up to bidders as to how they bid their jobs. The SPB and agencies will still award to the low bidder. Whether the tax is paid out of that amount or paid separately is up to the bidder.